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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,964	03/27/2007	Andreas Benner	022862-1096	1374

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EXAMINER

GRAHAM, GARY K

ART UNIT	PAPER NUMBER
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3727

MAIL DATE	DELIVERY MODE
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03/31/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/577,964	Applicant(s) BENNER, ANDREAS	
	Examiner Gary K. Graham	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20060503, 20080731</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7 and 14-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 7 and 14, line 3, setting forth a first glide area appears duplicative since claim 1 has already set forth at least one slope in the recess. It appears applicant should set forth that the at least one slope defines the first glide area.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-13 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kakuta et al (US patent 6,378,160) in view of Frey et al (US patent 5,337,439).

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The patent to Kakuta discloses the invention substantially as is claimed. Kakuta discloses a wiper device including a wiper shaft (1) that is provided with a recess (1a) and means (2,8) for accommodating the wiper shaft such that a free end (1c) protrudes therefrom. An annular locking element (10), provided with an interruption (between ends 10a), is arranged in the recess and is used for partially locking the wiper shaft in the axial direction in the accommodating means. The locking element rests on a stop disk (9) which is supported by the accommodating means. The locking element has an essentially round transverse cross-section. The recess has at least one approximately 45 degree slope (1b) in the axial direction of the shaft, along which the locking element can glide when a predetermined force is applied to the wiper shaft.

The patent to Kakuta discloses all of the above recited subject matter with the exception of the locking element having an essentially rectangular cross-section.

The patent to Frey discloses a wiper device (fig.1) wherein a locking element (8) having an essentially rectangular cross-section and interruption (11) is provided in a recess (6) in the wiper shaft (1). The recess includes an approximately 45 degree slope (7) to enable the locking element to glide thereupon when a sufficient axial force (12) is applied to the shaft.

It would have been obvious to one of skill in the art to provide the locking element of Kakuta as essentially rectangular in cross-section instead of round, as clearly suggested by Frey, to increase the material contact with the stop disk thus reducing stress concentrations as well as a mere art recognized equivalent shape for the locking element. Both round and rectangular cross-sections are known.

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With respect to claims 4, 11, 12, 19 and 20, while Kakuta does not discuss a particular force or load to cause release of the locking element, to select such does not appear inventive. One of skill in the art would by routine experimentation find the optimal force require to cause release of the locking element to enable shaft movement in a manner to prevent damage to the vehicle body or other components. The particular ranges set forth do not appear to produce a new and unexpected result which is different in kind and not merely degree from that which is suggested by Kakuta.

With respect to claim 5, and the manner in which the angle of slope is determined, such does not appear to distinguish from Kakuta. Such appears to relate to the method in which the wiper device is made and does not incorporate any particular structure to the recess that is not disclosed by Kakuta.

With respect to claim 8, setting forth that the locking element is embodied as a stamped part does not act to distinguish from the element disclosed by Kakuta. Such relates to the method of making the locking element and is not distinguishable in the product claim, at least not here.

Claims 7 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kakuta et al (US patent 6,378,160) in view of Frey et al (US patent 5,337,439) as applied to claims 1, 4, 5, 6 and 13 above, and further in view of Horng (GB publication 2,375,158).

The patents to Kakuta and Frey disclose all of the above recited subject matter with the exception of the recess having a tub-shaped structure defining two sloped areas on opposite sides of a seat area.

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The publication to Horng discloses that fastener receiving recesses (12, fig. 6) in rotary shafts (1) can be tub-shaped to define a bottom seat area with first (132) and second (142) sloped areas on each side thereof. The recess is adapted to receive a locking component (3) in clip or washer form. The recess is so shaped to reduce sharp edges and therefore reduce the possibility of damage to the bearing (94) during assembly of the shaft therein.

It would have been obvious to one of skill in the art to provide the recess of the modified Kakuta device with an additional sloped area on the opposite side of the seat area from the first sloped area, as clearly suggested by Horng, to reduce the possibility of damage to the bearing (8) during assembly.

With respect to claim 15, setting forth that the locking element is embodied as a stamped part does not act to distinguish from the element disclosed by Kakuta. Such relates to the method of making the locking element and is not distinguishable in the product claim, at least not here.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary K Graham/
Primary Examiner, Art Unit 3727

GKG
27 March 2010